

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Inventor(s):	Tadashi NAKAMURA	Docket No.:	49288.2300
Serial No.:	10/595,191	Confirmation No.:	4333
Filing Date:	March 22, 2006	Art Unit:	2133
TITLE:	DRIVE DEVICE	Examiner:	TBA

**PETITION TO MAKE SPECIAL BECAUSE A PRE-EXAMINATION SEARCH MADE  
(37 C.F.R. §1.102 and MPEP § 708.02)**

Assistant Commissioner of Patents  
Box DAC  
Washington, D.C. 20231

Dear Assistant Commissioner:

Applicant hereby petitions to make this application special because a pre-examination search was made.

**1. Accompanying Material**

Accompanying this petition is:

- (a) A Detailed Discussion of the References pursuant to 37 C.F.R. § 1.111 (b) and (c) in Support of Petition to Make Special Because A Pre-examination Search Made;

and

- (b) Declaration by Attorney in Support of Petition to Make Special Because A Pre-examination Search Made.

2. Fee

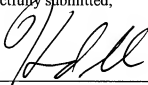
The fee required is to be paid by:

☐ already paid.

☐ the attached check no. \_\_\_\_\_ for \$130.00.

☒ charging Account No. 19-2814 the sum of \$130.00.

Respectfully submitted,



Dated: August 23, 2006

By: \_\_\_\_\_  
Howard Sobelman  
Reg. No. 39,038

**SNELL & WILMER L.L.P.**  
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SEARCH MADE (37 C.F.R. §1.102 and MPEP § 708.02)**

Assistant Commissioner of Patents  
Box DAC  
Washington, D.C. 20231

Pursuant to 37 C.F.R. § 1.102 and M.P.E.P. § 708.02 VIII (A)-(E), a Petition to Make Special Because A Pre-examination Search Made is being submitted. All claims presented are directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, Applicant will make an election without traverse as a prerequisite to the grant of special status. A pre-examination search was made in International Patent Classifications G11B20/12, 20/10, and 27/00 for the above-referenced patent application. Copies of each of the references deemed most closely related to the subject matter encompassed by the claims resulting from the pre-examination search are included herein, unless already made of record in the Information Disclosure Statement filed on March 22, 2006.

Pursuant to 37 C.F.R. § 1.111 (b) and (c), the following detailed discussion points out with the required particularity how the claimed subject matter is patentable over the references.

Japanese Publication Number 2005196903, published on July 21, 2005, generally discloses a recording device for transmitting an error to the host device in the case of the recording request of user information needed to be recorded in real time, and recording the user information requested to be recorded in the unrecorded area of a space area in the case of the recording request of user information not needed to be recorded in real time and updating address corresponding information. This publication does not disclose or suggest at least one of the technique for recording data at a replacement location in the user data area instead of the location included in the recording instruction, determining whether or not the recording of the data has succeeded, when the recording of the data has failed, recording the data at a location in the spare area, and the technique for setting a first range of value to the replacement location of the replacement management information when the replacement for the purpose of the pseudo-overwrite recording occurs, and setting a second range of value to the replacement location when the replacement for the purpose of recording due to defect occurs, all of which are elements in pending independent claim 1, and dependent claims 2-4 which depend therefrom.

PCT application WO 2004/049332, published on June 10, 2004, generally discloses a recording medium capable of data rewrite on a write-once type recording medium so as to improve the usefulness of the write-once type recording medium. Data rewrite is realized by the rewrite data being recorded on the rewrite replacement region and replacement management information relating to the original address to the address in the write replacement region being recorded in the replacement management region. This publication does not disclose or suggest at least one of the technique for recording data at a replacement location in the user data area instead of the location included in the recording instruction, determining whether or not the recording of the data has succeeded, when the recording of the data has failed, recording the data

at a location in the spare area, and the technique for setting a first range of value to the replacement location of the replacement management information when the replacement for the purpose of the pseudo-overwrite recording occurs, and setting a second range of value to the replacement location when the replacement for the purpose of recording due to defect occurs, all of which are elements in pending independent claim 1, and dependent claims 2-4 which depend therefrom.

Japanese Publication Number 2002-163862, published on June 7, 2002, generally discloses a system and method for improving the accuracy and expedition of next writable address recognition by recording the address, which represents a record starting position, on a recording medium as next writable address information at the end of a track. This publication does not disclose or suggest at least one of the technique for recording data at a replacement location in the user data area instead of the location included in the recording instruction, determining whether or not the recording of the data has succeeded, when the recording of the data has failed, recording the data at a location in the spare area, and the technique for setting a first range of value to the replacement location of the replacement management information when the replacement for the purpose of the pseudo-overwrite recording occurs, and setting a second range of value to the replacement location when the replacement for the purpose of recording due to defect occurs, all of which are elements in pending independent claim 1, and dependent claims 2-4 which depend therefrom.

Japanese Publication Number 06-103577, published on April 15, 1994, generally discloses a system and method for improving the operation convenience of a rewritable optical

disk of the virtual DRAW type. The publication discloses enabling a user to select an optimum alternate processing method according to the kind and other aspects of the recording data. Plural programs executing plural alternate processing methods are stored previously on a IC memory and it is constituted so that a proper alternative processing method is selectable by a user. This publication does not disclose or suggest at least one of the technique for recording data at a replacement location in the user data area instead of the location included in the recording instruction, determining whether or not the recording of the data has succeeded, when the recording of the data has failed, recording the data at a location in the spare area, and the technique for setting a first range of value to the replacement location of the replacement management information when the replacement for the purpose of the pseudo-overwrite recording occurs, and setting a second range of value to the replacement location when the replacement for the purpose of recording due to defect occurs, all of which are elements in pending independent claim 1, and dependent claims 2-4 which depend therefrom.

Japanese Publication Number 10-320924, published on December 4, 1998, generally discloses a method which uses an optical card with a data area for recording data, a substitutive area for substituting data in the data area and a management area for recording substitution information including an address to be substituted and a substitutive address. When an error occurs and the data area is full, a substitution is carried out, depending on the existence of a vacant area. This publication does not disclose or suggest at least one of the technique for recording data at a replacement location in the user data area instead of the location included in the recording instruction, determining whether or not the recording of the data has succeeded, when the recording of the data has failed, recording the data at a location in the spare area, and the technique for setting a first range of value to the replacement location of the replacement

management information when the replacement for the purpose of the pseudo-overwrite recording occurs, and setting a second range of value to the replacement location when the replacement for the purpose of recording due to defect occurs, all of which are elements in pending independent claim 1, and dependent claims 2-4 which depend therefrom.

Japanese Publication Number 63-103476, published on May 9, 1988, generally discloses a an external device executes access to the reproducing device by a logical address without minding a state of alternate recording at all, by recording in advance alternate management information in a prescribed area of a recording medium. This publication does not disclose or suggest at least one of the technique for recording data at a replacement location in the user data area instead of the location included in the recording instruction, determining whether or not the recording of the data has succeeded, when the recording of the data has failed, recording the data at a location in the spare area, and the technique for setting a first range of value to the replacement location of the replacement management information when the replacement for the purpose of the pseudo-overwrite recording occurs, and setting a second range of value to the replacement location when the replacement for the purpose of recording due to defect occurs, all of which are elements in pending independent claim 1, and dependent claims 2-4 which depend therefrom.

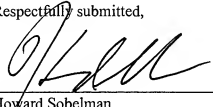
Japanese Publication Number 11-339385, published on December 10, 1999, generally discloses an information reproducing method which can improve probability with which data are reproduced, particularly when an acquired defect is caused at the time of reproduction of a data alternative region. The system refers to an alternate control region and reproduces the data of alternation. This publication does not disclose or suggest at least one of the technique for

recording data at a replacement location in the user data area instead of the location included in the recording instruction, determining whether or not the recording of the data has succeeded, when the recording of the data has failed, recording the data at a location in the spare area, and the technique for setting a first range of value to the replacement location of the replacement management information when the replacement for the purpose of the pseudo-overwrite recording occurs, and setting a second range of value to the replacement location when the replacement for the purpose of recording due to defect occurs, all of which are elements in pending independent claim 1, and dependent claims 2-4 which depend therefrom.

In conclusion, Applicant respectfully requests the grant of this Petition to Make Special because a pre-examination search was made and the requirements of 37 C.F.R. § 1.102 and M.P.E.P. § 708.02 are fulfilled.

Respectfully submitted,

Dated: August 23, 2006

By:   
Howard Sobelman  
Reg. No. 39,038

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**DECLARATION BY ATTORNEY IN SUPPORT OF PETITION TO  
MAKE SPECIAL BECAUSE A PRE-EXAMINATION SEARCH MADE (MPEP § 708.02)**

Assistant Commissioner of Patents  
Box DAC  
Washington, D.C. 20231

STATE OF ARIZONA       )  
                                      ) ss.  
County of Maricopa       )

I, Howard Sobelman, Reg. No. 39,038, of Snell & Wilmer L.L.P., One Arizona Center, 400 E. Van Buren, Phoenix, Arizona 85004-0001, (602) 382-6228, am the attorney for the Applicant in this case and make the following declarations:

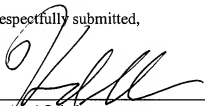
1. A pre-examination search was made in International Patent Classifications G11B20/12, 20/10, and 27/00 for the above-referenced patent application. The following patents were identified as a result of the pre-examination search:

JP 2005-196903	07/21/2005	Hitachi, Ltd
WO 2004/049332	06/10/2004	Sony Corporation
JP 2002-163862	06/07/2002	Sony Corporation
JP 06-103577	04/15/1994	Hitachi Maxwell Ltd.
JP 10-320924	12/04/1998	Canon Inc.
JP 63-103476	05/09/1988	Matsushita Graphic Communication Systems Inc.
JP 11-339385	12/10/1999	Canon Inc.

2. I declare further that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application of or any patent issued thereon.

Respectfully submitted,

Dated: August 23, 2006

By:   
Howard Sobelman  
Reg. No. 39,038

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